HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3989 OF 1997.

Shripad Ganpati Bhat. ..Petitioner.

Versus.

1. The Registrar,
Tilak Maharashtra Vidyapeeth,
Pune 411 037.
2. Tilak Maharashtra Vidyapeeth,
Vidyapeeth Bhavan, Gultekdi,
Pune 411 037. ..Respondents.
3. The State of Maharashtra,
Through Secretary, Higher Education,
Mantralaya, Mumbai.

Shri. S. V. Pitre with Shri. Nitin P. Deshpande for the Petitioner.
Shri. S. R. Nargolkar for the Respondent nos. 1 & 2.
Smt. S. S. Bhende, AGP for respondent no.3.

WITH

WRIT PETITION NO. 5190 OF 1998.

Shripad Ganpati Bhat. ..Petitioner.

Versus.

1. Tilak Maharashtra Vidyapeeth,
Vidyapeeth Bhavan, Gultekdi,
Pune 411 037.
2. Dr. V. M. Bachal,
Ex Vice-Chancellor,
3. Shri. R. K. Dhavalikar,
Registrar,
4. Dr. Sau Saroja Bhate,
HOD - Sanskrit,
5. Dr. M. A. Mehendale,
Sanskrit Scholar,
6. Dr. G. P. Palsule,
Sanskrit Scholar,
7. Dr. S. B. Dhandekar,
Jt. Director, Higher Education,
Govt. of Maharashtra, Pune.
8. Dr. Sucheta Paranjape.
9. Dr. Shrikant S. Bahulkar.
10. Dr. M. G. Dhadphale,
11. Dr. Heera Adyantaya.
12. Dr. K. R. Joshi,
13. Dr. Sunanda Tilak,
14. Dr. P. G. Lalye. ..Respondents.

Shri. S. V. Pitre for the petitioner.
Smt. S. S. Bhende, AGP for the respondent - State.

CORAM: S.B.MHASE &
D.G.KARNIK, JJ.

DATE : FEBRUARY 14 and 15, 2006.

ORAL JUDGMENT (PER D.G.KARNIK,J.).

1. Heard the learned counsel.

2. The point that arises for consideration in these two petitions is whether the petitioner has a legal right to be appointed to the post of a reader and whether a writ of mandamus can be issued to the respondents directing them to appoint the petitioner to the post of a reader ?

3. The facts giving rise to these petitions are briefly stated below:

. Tilak Maharashtra Vidyapith (hereinafter referred to as "the respondent No.2".) is arrained as respondent no.2 in writ petition No. 3989 of 1997 and respondent no.1 in writ petition No. 5190 of 1998. It is a a deemed University. The petitioner was appointed as a lecturer in Sanskrit in Balmukund Sanskrit Mahavidyalaya affiliated to the respondent no.2 in

September 1986. It appears that the petitioner also officiated as a principal of the said college occasionally from time to time. In the year 1997 the post of a reader in Sanskrit become vacant in the respondent no.2 and an advertisement was issued to fill up of that post sometime in April 1997. The petitioner along with few others applied for the post and a selection committee was formed for recommending the names. In July 1997 interviews were held. It is the case of the petitioner that the selection committee recommended the name of the petitioner for appointment to the post of the reader. He has, therefore, filed the writ petition no. 3989 of 1997 for mandamus directing his appointment.

4. According to the petitioner, despite the recommendation of the selection committee the respondent no.2 chose not to appoint him to the post of the reader but decided to re-advertise the post. Accordingly, a fresh advertisement was issued on August 26, 1997 for appointment of the reader in Sanskrit. The petitioner applied again and also participated in the selection process. The respondent No.8 in Writ Petition No. 5190 of 1998 also participated in the second selection process. In the second interview, the name of the respondent no. 8 was recommended at serial

no.1 and the name of the petitioner was recommended at serial no.2 in the order of merit. The respondent no.2 was about to appoint the respondent no. 8 as a reader when the petitioner filed the second writ petition bearing Writ petition no. 5190 of 1998 inter-alia for the relief of injunction restraining the appointment of the respondent no. 8 to the post of the reader in Sanskrit.

5. In the second writ petition ad-interim relief was initially granted, however, after hearing it was vacated. Thereafter the respondent no. 8 was appointed to the post of the reader. Learned counsel for the respondent no.2 states that the respondent No. 8 has since resigned from the post of the reader and is no longer in service. He further states that thereafter, under the career advancement scheme of the UGC, the petitioner has been given the scale of a reader with effect from 11.9.1999. Therefore, the grievance of the petitioner in the writ petition No. 5190 of 1998 as also for pay as a reader from 11.9.1999 do not survive.

6. Learned counsel for the petitioner, however, submits that the petitioner should be appointed as a reader substantively with deemed date of appointment

from July 16, 1997 when the first interviews were held. It is this claim that we are required to consider at this stage.

7. Several factual statements made in the petition are disputed by the learned counsel for the respondents. It is, however, not necessary to go into that factual controversy as in our opinion on the facts as stated in the petition itself, the petitioner is not entitled to any relief.

8. Several judgments were cited before us by the learned counsel for the respondent no.2 to contend that a candidate who is selected and/or whose name is put on the select list has no right to be appointed against the post unless any appointment is made and no mandamus can be issued by the Court for such appointment. Since, in our opinion, this is a settled position in law it is not necessary to refer to all the judgments cited on this point. We would only refer to a couple of them. **In S. Renuka & Ors. v/s. State of A. P. & Another reported in (2002) 5 SCC 195,** the Supreme Court in paragraph 8, has observed

> *"It is settled law that no right accrues to a person merely because a person is selected and his or her name is put on a panel. The*

petitioner has no right to claim an appointment."

. Similar view is taken in **Ludhiana Central Co-operative Bank Ltd V/s. Amrik Singh & Ors, reported in (2003) 10 SCC 136.**

9. Therefore, even assuming that the petitioner was selected as a reader in the first interview held on July 16, 1997, he has no right of being appointed to that post unless any appointment is made in persuance of that selection process. He cannot claim a mandamus that he should be appointed in pursuance of that selection. There is one more reason why the petitioner is not entitled to any relief. After the first interview the post of the reader in Sanskrit was re-advertised. The petitioner took part in the second selection wherein the respondent no. 8 (in writ petition no. 5190 of 1998) was found to be more meritorious by the selection committee. The petitioner having participated in the second selection process and having failed to be at the top of the select list cannot aprobate or reprobate and cannot challenge the second selection process.

10. Learned counsel for the petitioner states that the general principle of law that a candidate who

is selected and is put on a select list has no right of appointment would not apply to the present case in view of the regulations of the respondent no.2. No provision was pointed out to us to show that the regulations have statutory force or flavour. Assuming, however, that the regulations have statutory force, in our opinion even the regulations do not confer any right of appointment on the petitioner. Learned counsel for the petitioner strongly relied upon regulation no. 40 and contended that regulation no.40 confers on the petitioner a right to be appointed on the basis of the selection. Clause (1) of regulation 40 reads thus:

> "There shall be a selection committee for making recommendations to the Karyakari Mandal for appointment of all Teachers of the Vidyapeeth."

. In our view clause no.(1) the regulation 40 makes it clear that the selection committee would only make a recommendation for the appointment and it would be open to the Karyakari Mandal to accept the recommendation or not. The position is further clarified by the second proviso to clause (4)(f) of regulation 40 which states that the Karykari Mandal may not accept the recommendation of the selection

committee for the reasons to be recorded in writing.

11. Thus, it is amply clear that the selection committee has only the power to recommend the name or names and the recommendations of the selection committee are not binding on the Karyakari Mandal. The general principle that a person who is selected whose name is put on the select list has no right of appointment until the appointment is made and no mandamus can be issued is not in any way modified by regulation 40 or any clause thereof.

12. We therefore hold that the petitioner had no right of appointment to the post of a reader in Sanskrit in pursuance of the first or second interview. Since he has no right of appointment he cannot claim any deemed date of appointment.

13. For these reasons, there is no merit in the petitions, which are hereby dismissed with costs.

(D.G.KARNIK,J.) **(S.B.MHASE, J.)**